

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

HARBINGER CAPITAL PARTNERS OFFSHORE  
MANAGER, L.L.C., et al.,

Defendants.

ECF CASE

No. 12-CIV-5027 (PAC)

**NOTICE OF MOTION**

PLEASE TAKE NOTICE that, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, Defendants Harbinger Capital Partners Offshore Manager, L.L.C., Harbinger Capital Partners Special Situations GP, L.L.C., and Philip A. Falcone (“Defendants”), upon the accompanying Memorandum of Law In Support of Defendants’ Motion to Dismiss Plaintiff’s Complaint and the declaration of Tibor L. Nagy, Jr. and the exhibit annexed thereto, will move this Court, before the Honorable Paul A. Crotty, to dismiss Plaintiff Securities and Exchange Commission’s complaint, dated June 27, 2012, for failure to state a claim upon which relief can be granted for reasons more fully explained in the accompanying memorandum.

WHEREFORE, Defendants respectfully request that this Court dismiss the Complaint in its entirety and grant such other relief as the Court may consider appropriate.

Dated: November 30, 2012  
New York, New York

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